



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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### *Urbanized Waters NR115 Subchapter Proposal*

## DRAFT

### Purpose:

Wisconsin's Shoreland Management Program went into effect in the late 1960s. Unfortunately, these minimum standards for shoreland development came too late for those waters developed earlier, like Pewaukee Lake in Waukesha County which had nearly all its developable land built up by the 1940s. As a result, when counties adopted ordinances that met the minimum standards, much of the existing development became nonconforming, because a structure was too close to the water or if a lot was too small.

By developing standards for lakes and rivers that meet a "urbanized water" classification, some flexibility can be provided to the counties regulating the nonconforming structures and lots, and property owners can gain some flexibility when remodeling or redeveloping shoreland property.

### Methodology:

A community could, at its discretion, request an "urbanized water" classification for a lake or river or portion thereof. The classification would apply to the shoreland zone of the lake or river that had been developed at higher densities than currently allowed in NR115. The community would need to document that the shoreland area in question has relatively dense urban development that existed before the effective date of the county shoreland zoning ordinance and at densities greater than allowed by the minimum statewide standards in NR115. To qualify for the classification, the development pattern must occur:

- Over the entire shoreland zone on lakes under 50 acres, if sewered
- Over 1 mile of the shoreland zone on lakes over 50 acres, if sewered
- Over the entire shoreland zone on lakes under 100 acres, if unsewered
- Over 1.5 miles of the shoreland zone in lakes over 100 acres, if unsewered
- Over 1 mile of the shoreland zone on rivers, if sewered
- Over 1.5 miles of the shoreland zone on rivers, if unsewered

Classification as an "urbanized water" would require documentation of shoreland characteristics and a proposal for alternative regulations. Alternative regulations for development within the shoreland zone of "urbanized waters" would be required to meet minimum standards based on existing development patterns.

If the governing body of a community requests such classification, it would be required to submit documentation of existing development patterns in the shoreland zone. Such evidence would need to address:

- Current building density, including the number, location and density of principal and accessory structures in the shoreland zone, legal status of existing buildings that are nonconforming and density allowed under current and proposed local land use regulations

- Land coverage by impervious surfaces
- Extent of commercial, industrial or other non-residential uses in the shoreland area
- Utilities
- Aerial photograph of shoreland area proposed to be classified as "urbanized".
- Current shoreland regulations and proposed new regulations
- Any other information which the community or Department may reasonably require

The Department would approve or deny the request for classification as an "urbanized water" and would issue written findings in support of the decision. A request for classification as an "urbanized water" would be approved only if the community demonstrates, using the evidence required above, that special conditions of urbanization exist along the shoreland to be classified.

Once a waterbody and its corresponding land use regulations are approved by the Department as an "urbanized water," any amendment to the regulations would require DNR approval prior to becoming effective, and at any time, the community could petition the DNR to rescind the "urbanized water" classification.

#### Minimum Standards:

Standard	Proposed Standard for General Shoreland Development	Proposed Reduction in Standard for "Urbanized Waters"
OHWB Setback	75 feet from OHWM	May be reduced to average setback of legal principal structures in the urbanized area, but not less the primary buffer required in NR115
Primary Buffer	Option 1 – 35 feet Option 2 – 50 feet	May be reduced to 15 feet less than the OHWM setback that applies to the "urbanized water"
Minimum Lot Sizes	Option 1 – 10,000 sq. ft. sewered and 20,000 sq. ft. unsewered Option 2 – 20,000 sq. ft. with 5,000 sq. ft. not in wetland or floodway at time of platting	May be reduced to average lot size, but no less than 5,000 sq. ft. for sewered lots, and 10,000 sq. ft. for unsewered lots
Minimum Lot Width	Option 1 – 65 feet if sewered and 100 feet if unsewered Option 2 – 100 feet	May be reduced to average lot width, but no less than 50 feet for sewered lots, and 75 feet for unsewered lots

Any reduction from the general NR115 standards requires that the community increase (A) another standard proportionally on the same waterbody or (B) the same standard on a more protective class of waterbodies to ensure protection of public rights in navigable waters. The increased standards may provide for the removal or phasing-out of nonconforming accessory structures, better stormwater management in the shoreland area, or the reintroduction or maintenance of native vegetation in shoreland areas or other results consistent with the purpose of the Shoreland Management Program.

#### Result:

A process by which communities with urbanized waters can propose alternative regulations that are designed to meet the purpose of Chapter NR115, but may differ from the general minimum standards found in Chapter NR115.